

Application No. 09/557,696

REMARKS

Claims 1-14 and 38-68 are pending. By this Amendment, claim 68 is amended to correct a typographical error.

Claims 64-68 are allowed. Claims 8, 9, 11, 45-52, 55 and 62 have been found free of the cited art. Claims 1-7, 10, 12-14, 38-44, 53, 54, 57-61 and 63 stand rejected. Applicants respectfully request reconsideration of the rejections based on the following remarks.

Rejections Under 35 U.S.C. § 112

The Examiner rejected claim 1 under 35 U.S.C. § 112 as being indefinite. In particular, the Examiner asserted that the Applicants appeared to be adding "a structural limitation in which the first collector is located on a first transport device and the second collector is located on a second transport device path." Applicants respectfully assert that the Examiner's proposition is not well founded and that prima facie indefiniteness has not been established. Applicants maintain that the claim language is clear as drafted. Applicants respectfully request reconsideration of the rejection based on the following comments.

It is not clear why the Examiner is trying to read more into the claim language than is in the claim language. The claims are read in light of the disclosure. See MPEP 2106 A.2. "Along a flow path different" means "along a flow path different." It does not mean anything about transport devices. Applicants mean nothing more than the second collector and the first collector are not in series. This is clear from the language and from the thorough description in the specification and drawings. With all due respect, the fact that the language does not clearly say what the Examiner thinks its says is a result of the Examiner trying to read too much into the language. The meaning is straightforward and clear. If the Examiner prefers alternative language for this meaning, the Examiner is invited to provide suggested language.

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Applicants maintain that the claim language is clear and that prima facie indefiniteness has not been established. In view of the above comments, Applicants respectfully request withdrawal of the rejection of claim 1 under 35 U.S.C. § 112 as being indefinite.

Rejection Over Marsh et al.

The Examiner rejected claims 38, 53, 54, 56-60 and 63 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 4,649,037 to Marsh et al. (the Marsh patent). Applicants incorporate by reference the discussion in the Amendment After Final of May 9, 2003. This rejection is directed to two independent claims with very different scopes. These are discussed sequentially. However, with respect to both sets of claims, Applicants maintain that the Examiner has fallen far short of establishing prima facie obviousness. Applicants respectfully request reconsideration of the rejection based on the following comments.

With respect to claim 38, the Examiner states on page 4 of the Office Action that "the claim is much broader than the remaining independent claims 1, 58 and 64." However, whether or not true, this is not a basis for rejecting the claim. The Examiner points to a cook making two batches of product in a pressure cooker. However, claim 38 clearly implies that the reactor remains sealed during the process of collecting the two products in the two collectors. In contrast, the Examiner's example involves opening the pressure cooker to the environment between batches. Thus, the Examiner's example does not imply in any way that the claimed invention is not novel or obvious.

The Examiner asserts that the claims and specification do not explain what is meant by "mixing independent reaction products." With all due respect, the specification does clearly explain. For example, at page 21, line 26 to page 22, line 3, the specification states:

In addition to the collection of different particles within separate collectors, a plurality of different product compositions can be collected within a single collector. Thus, for example, electroactive particles and electrically conductive particles can be sequentially

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produced and collected in a single collector, such that the mixture is ready for testing in a battery electrode without the addition of more particulates. To better mix the combination of product compositions, the synthesis of the plurality of product compositions can be alternated several times during the collection within the single collector.

Thus, the specification does explain.

The Examiner also asserts that the Marsh patent teaches the production of multiple reaction products, such as gas and water in addition to particles. However, this assertion misses the point. A single reaction may product a product with a variety of components, such as particles, gases, and water. The claim is clearly directed to two different reaction sequences separated in time and not to a plurality of products simultaneously produced. The Marsh patent simply does not teach the production of different reactants sequentially in time within the sealed reactor. Thus, neither the Examiner's hypothetical nor the Marsh patent render Applicants' claimed invention prima facie unpatentable.

With respect to claim 58, the Examiner asserts that the claim does not recite that the fluid reactants come from different sources. The Examiner notes that the claim recites "a delivery system comprising a first quantity of fluid reactants and a second quantity of fluid reactants being different from the second quantity of fluid reactants." It seems clear that there are two sources of fluid reactants since if they were in a single source they would be mixed and not different. It is true that the claim does not recite exactly how the control system directs the different reactants into the reactor, but there are two different sources since there are simultaneously two different quantities of fluid reactants.

With respect to the sequential reacting of reactants, the Examiner points to Examples 1 and 3 of the Marsh patent. However, the Examiner continues to ignore aspects of the claimed invention. The cited art must teach and motivate all of the claim elements. See MPEP 2143. The Marsh patent does not teach, suggest or motivate forming different products and collecting them two different collectors. Thus, with respect to claim 58, the Marsh patent is deficient with respect to a reactant delivery system not comprising two different liquid reactants

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and with respect to collecting two different products with two different collectors. Due to these two deficiencies, the Marsh patent does not come close to rendering Applicants' claimed invention prima facie obvious.

The Marsh patent does not teach, suggest or motivate Applicants' claimed invention. Thus, the Examiner has failed to establish prima facie obviousness over the Marsh patent. Applicants respectfully request withdrawal of the rejection of claims 38, 53, 54, 56-60 and 63 under 35 U.S.C. § 103(a) as being unpatentable over the Marsh patent.

Rejection Over Marsh et al. and Acosta et al.

The Examiner rejected claims 1-7, 10, 12-14, 39-44 and 61 under 35 U.S.C. § 103(a) as being unpatentable over the Marsh patent as applied to claims 38, 53-54 and 56-57, and further in view of U.S. Patent 6,254,826 to Acosta et al. (the Acosta patent). Applicants incorporate by reference the discussion in the Amendment After Final of May 9, 2003. Here, Applicants focus on the Examiner's response to Applicants' previous arguments. Applicants maintain that the Examiner has fallen far short of establishing prima facie obviousness. Applicants respectfully request reconsideration of the rejection based on the following comments.

The Examiner noted that the language of claim 1 does not require any particular structure. This is true. Applicants' specification, for example, describes the relative motion between a reactant nozzle and a series of collectors as involving either movement of the reactant nozzle and/or the movement of the collectors. However, during the reaction process itself, a set of reactants is reacted to form products in a flow, and the products are collected. With one reactant inlet and two independent collectors used in series (i.e., sequentially in time), different flow paths are used to direct the different products to different collectors for sequential collection. Different flow paths result from the motion of the nozzle relative to the collectors.

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The claims at issue are method claims, and the Examiner has not presented any cited references that suggest a reason to add additional structure to the claim relating to the apparatus used to perform the claimed method. The Examiner points to a single flow path in the Marsh patent, but clearly this falls far short of rendering the present claim obvious.

The Acosta patent is not even analogous art. The Acosta patent relates to performing biological assays, while the Marsh patent relates to the production of inorganic particles. Furthermore, while the Acosta patent described moving nozzles, the Acosta patent does not disclose **reacting a flow in a fluid stream** to form a product composition. Thus, neither the Marsh patent nor the Acosta patent teach or suggest reacting a reactant stream in which the reactant stream is initiated from an inlet that can move to direct the product flow into different collectors. Since the cited references do not disclose such a feature, the references do not teach, suggest or motivate all of the elements of Applicants' claimed invention. The Examiner's analysis is clearly based on improper hindsight reasoning based on Applicants' disclosure. Therefore, the combined teachings of the Marsh patent and the Acosta patent do not render the claimed invention prima facie obvious.

Since the combined teachings of the cited references do not render Applicants' claimed invention prima facie obvious, Applicants respectfully request the withdrawal of the rejection of claims 1-7, 10, 12-14, 39-44 and 61 under 35 U.S.C. § 103(a) as being unpatentable over the Marsh patent as applied to claims 38, 53-54 and 56-57, and further in view of the Acosta patent.

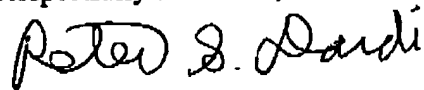
CONCLUSIONS

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

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The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



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